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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/432,820    11/02/99    KAPOOR    A    A-57004-4/RF

FLEHR HOHBACH TEST  
ALBRITTON & HERBERT  
STE 3400  
FOUR EMBACADERO CENTER  
SAN FRANCISCO CA 94111

HM22/1120

EXAMINER

ZARA, J

ART UNIT

PAPER NUMBER

1635

DATE MAILED:

7  
11/20/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

File

**Office Action Summary**Application No.  
**09/432,820**

Applicant(s)

**Kapoor et al.**

Examiner

**Zara, Jane**Group Art Unit  
**1635**☐ Responsive to communication(s) filed on \_\_\_\_\_☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claim**☒ Claim(s) 24-49 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.☐ Claim(s) \_\_\_\_\_ is/are rejected.☐ Claim(s) \_\_\_\_\_ is/are objected to.☒ Claims 24-49 are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119**☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☐ Notice of References Cited, PTO-892☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

**DETAILED ACTION**

Claims 24-49 are pending in the instant application.

***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 24-33 and 41-49, drawn to method of detecting Mycobacteria comprising detecting antibodies to polypeptides, classified in class 435, subclass 7.1.
- II. Claims 34-40, drawn to a method of detecting Mycobacteria comprising detecting nucleic acids, classified in class 435, subclass 6.

The inventions are distinct, each from the other because of the following reasons:

Group I and Group II are biologically and functionally different and distinct from each other and thus one does not render the other obvious. The compositions and methods of Group I are different and distinct from those in Group II. The methods of Group I comprises steps which are not required for or present in those of Group II. Thus, the operation of the methods of Groups I and II are different and distinct from each other, and, therefore, the inventions of these different, distinct groups are capable of supporting separate patents.

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A telephone call was made to applicants' representative, Richard Trecartin, on or about November 6, 2000 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

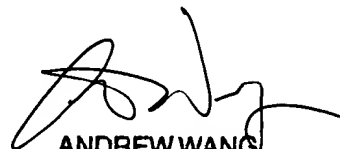
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

### ***Conclusion***

Certain papers related to this application may be submitted to Art Unit 1635 by facsimile transmission. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 C.F.R. § 1.6(d)). The official fax telephone numbers for the Group are (703) 308-4242 and (703) 305-3014. NOTE: If Applicant *does* submit a paper by fax, the original signed copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jane Zara** whose telephone number is (703) 306-5820. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader, can be reached on (703) 308-0447. Any inquiry regarding this application should be directed to the patent analyst, Katrina Turner, whose telephone number is (703) 305-3413. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

  
ANDREW WANG  
PATENT EXAMINER  
TC 1600

**JZ**

November 17, 2000